IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Bail Appl..No. 3757 of 2007(M)

CRIME NO. NOT KNOWN, PATHANAMTHITTA POLICE STATION

PETITIONER

MOHAMMED SHARIEF, AGED 40 YEARS,
S/O.NAGOOR KANI RAWTHER, SHAMEER MANZIL,
ANAPPARA, PATHANAMTHITTA.

BY ADV. SRI.P.A.MOHAMMED SHAH

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
PATHANAMTHITTA.

2. STATE OF KERALA REPRESENTED BY THE
PUBIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3757 of 2007

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Dated this the 25th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioner had come to this Court unable to ascertain for certain whether the respondents want him to be arrested. The learned Prosecutor, on instructions, submits that Crime No.73 of 2007 of Pathanamthitta Police Station has been registered and the allegation in that crime relates to illegal drawal of water without any requisite authority by the consumer in a particular water connection, which stood earlier in the name of the father of the petitioner. The Kerala Water Authority is the defacto complainant. The grievance of the defacto complainant is that the water connection which was once severed was reconnected by the consumer without the consent of the Authority. Investigation is in progress. The police has not been able to specifically array any one as the accused. The petitioner apprehends imminent arrest.

2. The learned Prosecutor, on instructions, submits that the petitioner has not been arrayed as an accused so far. The possibility

of his being arrayed as an accused cannot be ruled out, the learned P.P. submits.

3. The learned counsel for the petitioner prays, the learned Prosecutor does not seriously oppose the said prayer and I am satisfied in the circumstances of this case that, notwithstanding the fact that the petitioner has not been specifically arrayed as an accused, appropriate direction under Section 438 Cr.P.C. can be issued subject, of course, to conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 2.7.2007. If after such interrogation or at any time thereafter the Investigating Officer is satisfied that the petitioner has got to be arrested as an accused in the crime, the petitioner shall, after such arrest, be released on bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the Investigating Officer as directed in clause (1) above, these directions shall lapse on 2.7.06 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 2.7.2006 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 2.7.2007.

(R. BASANT)
Judge

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